

PATENT COOPERATION TREATY

PCT

NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

United States Patent and Trademark
Office
(Box PCT)
Crystal Plaza 2
Washington, DC 20231
ÉTATS-UNIS D'AMÉRIQUE

in its capacity as elected Office

Date of mailing (day/month/year)

27 January 1999 (27.01.99)

International application No.

PCT/US98/11224

Applicant's or agent's file reference

5525-0035.41

International filing date (day/month/year)

22 May 1998 (22.05.98)

Priority date (day/month/year)

23 May 1997 (23.05.97)

Applicant

PALLAS, Michael, C. et al

1. The designated Office is hereby notified of its election made:



in the demand filed with the International Preliminary Examining Authority on:

14 December 1998 (14.12.98)



in a notice effecting later election filed with the International Bureau on:

2. The election ☒ was

was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Facsimile No.: (41-22) 740.14.35

Authorized officer

Lazar Joseph Panakal

Telephone No.: (41-22) 338.83.38

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 23 AUG 1999

WIPO

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Applicant's or agent's file reference 5525-0035.41	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US98/11224	International filing date (day/month/year) 22 MAY 1998	Priority date (day/month/year) 23 MAY 1997
International Patent Classification (IPC) or national classification and IPC Please See Supplemental Sheet.		
Applicant LYNX THERAPEUTICS, INC.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 4 sheets.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority. (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 0 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of report with regard to novelty, inventive step or industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 14 DECEMBER 1998	Date of completion of this report 10 AUGUST 1999
Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231	Authorized officer JOYCE TUNG
Facsimile No. (703) 305-3230	Telephone No. (703) 305-7112

JOYCE BRIDGERS
PARALEGAL SPECIALIST
CHEMICAL MATRIX

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US98/11224

I. Basis of the report

1. This report has been drawn on the basis of *(Substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments):*

☒ the international application as originally filed.

☒ the description, pages 1-30 , as originally filed.

pages NONE , filed with the demand.

pages NONE , filed with the letter of _____.

pages _____ , filed with the letter of _____.

☒ the claims, Nos. 1-7 , as originally filed.

Nos. NONE , as amended under Article 19.

Nos. NONE , filed with the demand.

Nos. NONE , filed with the letter of _____.

Nos. _____ , filed with the letter of _____.

☒ the drawings, sheets/fig 1-10 , as originally filed.

sheets/fig NONE , filed with the demand.

sheets/fig NONE , filed with the letter of _____.

sheets/fig _____ , filed with the letter of _____.

2. The amendments have resulted in the cancellation of:

☒ the description, pages NONE .

☒ the claims, Nos. NONE .

☒ the drawings, sheets/fig NONE .

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the ~~Supplemental Box~~ Additional observations below (Rule 70.2(c)).

4. Additional observations, if necessary:

NONE

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US98/11224

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. STATEMENT**

Novelty (N)	Claims	<u>NONE</u>	YES
	Claims	<u>1-7</u>	NO
Inventive Step (IS)	Claims	<u>NONE</u>	YES
	Claims	<u>1-7</u>	NO
Industrial Applicability (IA)	Claims	<u>1-7</u>	YES
	Claims	<u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Claims 1-7 lack novelty and an inventive step under PCT Article 33(2) and 33(3) as being anticipated and obvious over Wilding et al. (U.S. Patent 5,587,128) respectively:

Wilding et al. teach a device for amplifying a preselected nucleic acid in a sample by conducting a polynucleotide amplification reaction. The device includes reaction chamber, one port in fluid communication with reaction chamber (see column 4, lines 10-60) and detection means (see column 8, lines 54-65). The reaction chamber may also comprise a plurality of reaction chambers (see column 9, lines 15). The chamber may also include protrusions which are beads coated with a polynucleotide probe and immobilize amplified polynucleotide (see column 9, lines 15-53). The port in fluid communication has a depressible member 85 which can be functioned as a dam (see column 18, lines 49-52). The features of the device of Wilding et al. anticipate and are obvious over claims 1-7 respectively.

Claims 1-7 meet the criteria set out in PCT Article 33(4), because the apparatus is useful in an industrial application for sequential processing of plurality of analytes.

----- NEW CITATIONS -----

NONE

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US98/11224

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: Boxes I - VIII

Sheet 10

CLASSIFICATION:

The International Patent Classification (IPC) and/or the National classification are as listed below:

IPC(6): G01N 21/00, 21/29, 21/64; B01J 10/00; C07H 19/00 and US Cl.: 422/50, 55, 82.05, 82.07, 129; 536/22.1

PATENT COOPERATION TREATY

PCT

NOTIFICATION CONCERNING
SUBMISSION OR TRANSMITTAL
OF PRIORITY DOCUMENT

(PCT Administrative Instructions, Section 411)

From the INTERNATIONAL BUREAU

To:

POWERS, Vincent, M.
Dehlinger & Associates
P.O. Box 60850
Palo Alto, CA 94306-0850
ÉTATS-UNIS D'AMÉRIQUE

Date of mailing (day/month/year) 20 July 1999 (20.07.99)	IMPORTANT NOTIFICATION
Applicant's or agent's file reference 5525-0035.41	
International application No. PCT/US98/11224	International filing date (day/month/year) 22 May 1998 (22.05.98)
International publication date (day/month/year) 26 November 1998 (26.11.98)	Priority date (day/month/year) 23 May 1997 (23.05.97)
Applicant LYNX THERAPEUTICS, INC. et al	

1. The applicant is hereby notified of the date of receipt (except where the letters "NR" appear in the right-hand column) by the International Bureau of the priority document(s) relating to the earlier application(s) indicated below. Unless otherwise indicated by an asterisk appearing next to a date of receipt, or by the letters "NR", in the right-hand column, the priority document concerned was submitted or transmitted to the International Bureau in compliance with Rule 17.1(a) or (b).
2. This updates and replaces any previously issued notification concerning submission or transmittal of priority documents.
3. An asterisk(*) appearing next to a date of receipt, in the right-hand column, denotes a priority document submitted or transmitted to the International Bureau but not in compliance with Rule 17.1(a) or (b). In such a case, **the attention of the applicant is directed** to Rule 17.1(c) which provides that no designated Office may disregard the priority claim concerned before giving the applicant an opportunity, upon entry into the national phase, to furnish the priority document within a time limit which is reasonable under the circumstances.
4. The letters "NR" appearing in the right-hand column denote a priority document which was not received by the International Bureau or which the applicant did not request the receiving Office to prepare and transmit to the International Bureau, as provided by Rule 17.1(a) or (b), respectively. In such a case, **the attention of the applicant is directed** to Rule 17.1(c) which provides that no designated Office may disregard the priority claim concerned before giving the applicant an opportunity, upon entry into the national phase, to furnish the priority document within a time limit which is reasonable under the circumstances.

<u>Priority date</u>	<u>Priority application No.</u>	<u>Country or regional Office or PCT receiving Office</u>	<u>Date of receipt of priority document</u>
23 May 1997 (23.05.97)	08/862,610	US	14 July 1999 (14.07.99)

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1211 Geneva 20, Switzerland

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Authorized officer

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INTERNATIONAL SEARCH REPORT

International Application No
PCT/US 98/05025

A. CLASSIFICATION OF SUBJECT MATTER
IPC 6 G01N21/77 G01N21/64

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 6 G01N

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X, P	WO 97 14028 A (LUMINEX CORP) 17 April 1997 see abstract	1-8
X	WO 93 02360 A (TRANSMED BIOTECH INCORPORATED) 4 February 1993 see page 4, line 18-31 see page 5, line 6-10 see page 6, line 10-25 see page 6, line 26 - page 7, line 8 see page 7, line 18 - page 8, line 2 see page 9, line 31-32 see page 19, line 36 - page 20, line 2	1-8
X	WO 89 11101 A (MICHAEL JOHN HOLMES) 16 November 1989 see page 5, line 20 - page 6, line 15 see page 7, line 33 - page 8, line 2 see page 8, line 15-20	1-8

-/-

☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

* Special categories of cited documents:

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier document but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Date of the actual completion of the international search

13 August 1998

Date of mailing of the international search report

24/08/1998

Name and mailing address of the ISA

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Authorized officer

Zinngrebe, U

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 98/05025

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT		
Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 4 499 052 A (FULWYLER) 12 February 1985 see column 1, line 61 - column 2, line 24 see column 6, line 4-11; examples 1,4 ---	1-8
X	US 5 028 545 A (SOINI) 2 July 1991 see column 1, line 63 - column 2, line 4 see column 2, line 20-37 see column 2, line 62-66 see column 3, line 10-13 see column 3, line 44-49 ---	1-8
A	GB 2 294 319 A (CAMBRIDGE IMAGING LTD) 24 April 1996 see page 8, paragraph 3 - page 9, paragraph 8 see page 14, paragraph 4 see page 42, line 2-6; figures 7A,B,C ---	11,19,27
A	US 4 907 037 A (BOISDE GILBERT ET AL) 6 March 1990 see column 6, line 33 - column 7, line 17; figure 1 ---	11,19,27
A	US 5 308 771 A (ZHOU QUAN ET AL) 3 May 1994 see column 6, line 36-63; figure 2 ---	11,19,27
A	US 5 512 490 A (KAUER JOHN S ET AL) 30 April 1996 see column 34, line 19 - column 36, line 61; figures 22,23 ---	11,19,27
A	EP 0 633 465 A (CONSIGLIO NAZIONALE RICERCHE) 11 January 1995 see column 1, line 1-10 see column 2, line 14 - column 3, line 8 see column 4, line 10-13 ---	11,19,27
A	US 3 791 192 A (BUTLER J) 12 February 1974 see column 9, line 4-26; figure 14 ---	11,19,27
A	US 5 252 294 A (KROY WALTER ET AL) 12 October 1993 see column 2, line 35 - column 3, line 30; figures 1-3 ---	11,19,27
A	EP 0 547 787 A (FLOW VISION INC) 23 June 1993 see column 6, line 13 - column 8, line 38; figures 2,3 -----	11,19,27

INTERNATIONAL SEARCH REPORT

Information on patent family members

national Application No

PCT/US 98/05025

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
WO 9714028 A	17-04-1997	US 5736330 A AU 7398996 A EP 0852004 A	07-04-1998 30-04-1997 08-07-1998
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INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 98/05025

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
US 4907037 A		DE 3889757 T EP 0284513 A JP 2597634 B JP 63255645 A	22-12-1994 28-09-1988 09-04-1997 21-10-1988
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EP 0547787 A	23-06-1993	US 5191388 A BR 9205036 A CA 2083681 A JP 6074891 A	02-03-1993 22-06-1993 19-06-1993 18-03-1994